In the Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-622

THE PEOPLE OF SAIPAN, BY AND THROUGH HERMAN Q. GUERRERO, ET AL., PETITIONERS

v.

UNITED STATES DEPARTMENT OF THE INTERIOR, ET AL., AND CONTINENTAL AIRLINES, INC.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

SUPPLEMENTAL BRIEF FOR THE FEDERAL RESPONDENTS IN OPPOSITION

Petitioner raised broad issues regarding whether the National Environmental Policy Act (NEPA) applied to the Trust Territory of the Pacific Islands (Pet. 2, 6-8), and in our Brief in Opposition we pointed out that the Trust Territory's legal and political structure, which affected whether NEPA applied there, were in a state of change because of the proposed Compact of Free Association between the United States and the Government of Micronesia, which would, if approved by Congress and island plebiscite, grant the people of the Trust Territory full responsibility for and authority over their own affairs (Brief in Opp. 5 n.2, 9-11).

However, in order to avoid any possible misunderstanding in regard to this matter, we file this Supplemental Brief to point out that Saipan is not within the area covered by the Compact, but instead comes within the jurisdiction of a separately proposed Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States, signed February 15, 1975.[1]

If approved by fifty-five percent of the people of the Northern Mariana Islands, and the United States Congress (Article X, Section 1001 (a) and (b)), the Covenant would establish "a self-governing commonwealth * * * in political union with and under the sovereignty of the United States of America" (Article I, Section 101). The Covenant would grant the people of the Northern Mariana Islands, including Saipan, the "right of local self-government" with respect to "internal affairs in accordance with a Constitution of their own adoption" (Article I, Section 105). Executive power would be vested in a popularly elected Governor and other such officials as the Constitution or laws of the Northern Mariana Islands may provide (Article II, Section 203(b)), legislative power in a popularly elected legislature (Article II, Section 203(c)), and judicial power in such courts as the Constitution or laws of the Northern Mariana Islands may provide (Article II, Section 203(d)).[2]

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[1]We have lodged a copy of the Covenant with the Clerk of this Court.

[2]Pursuant to the Covenant, the United States is required to establish a "District Court" for the Northern Mariana Islands as part of the same judicial circuit as Guam (Article IV, Section 401, which would have such appellate jurisdiction as the Constitution or laws of the Northern Mariana Islands may provide (Article IV), Section 402(c)).

The Covenant would confer United States citizenship on citizens of the Trust Territory within the Northern Mariana Islands who wish to become United States citizens (Article III, Sections 301 and 302). Certain laws of the United States in existence on the effective date of the Covenant, and their subsequent amendments, will apply to the Northern Mariana Islands, including laws applicable to Guam and "which are of general application to the several States as they are applicable to the several States", (Article V, Section 502(a)(2)).

The Covenant will become fully effective, at the earliest, in 1981. At the present time, and at the time of the filing of this action, Secretarial Order No. 2918, 34 Fed. Reg. 157, was in full effect, pursuant to the Trust Territory Agreement between the United States and the Security Council of the United Nations, 61 Stat. 3301 (Br. in Opp. 4).

As we stated in our Brief in Opposition, intrusion by the federal courts at this stage in the development of the Trust Territory's legal and political institutions would be inappropriate.

Respectfully submitted.

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